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TO RUEHC/SECSTATE WASHDC IMMEDIATE 0050

INFO RUEHLO/AMEMBASSY LONDON IMMEDIATE 0456

RUEHFR/AMEMBASSY PARIS IMMEDIATE 0654

RUEHKO/AMEMBASSY TOKYO IMMEDIATE 3233

RUCNDT/USMISSION USUN NEW YORK IMMEDIATE 2330

RUCNASE/ASEAN MEMBER COLLECTIVE PRIORITY

C O N F I D E N T I A L SECTION 01 OF 03 PHNOM PENH 000883

SIPDIS

STATE FOR EAP/MLS, D, P, DRL, IO, S/WCI
USUN FOR M. SIMONOFF

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TAGS: PREL PGOV KJUS EAID PHUM CB

SUBJECT: SOK AN ON THE KHMER ROUGE TRIBUNAL

REF: A. PHNOM PENH 775

1B. PHNOM PENH 653

Classified By: CHARGE D'AFFAIRES A.I. PIPER CAMPBELL FOR REASONS 1.4 (B
, D)

11. (C) SUMMARY: As a follow-up to a coordinated donor strategy to engage Royal Government of Cambodia (RGC) officials on corruption allegations in the Cambodian administrative side of the Extraordinary Chambers in the Courts of Cambodia (ECCC) and in the context of ongoing discussions with other officials, Charge October 31 called on Sok An, Deputy Prime Minister and Minister of the Council of Ministers, to relay the USG's shared concerns about the unresolved report from the UN Office of Internal Oversight Services (Ref B). Sok An chose to meet on a Cambodian holiday in advance of extended official travel and indicated that he understood implicitly the primary concern was for the removal of ECCC Director Sean Visoth. Although hinting that the removal of Visoth remained on the table, Sok An made a legalistic case for adhering to due process before removing one of only two Cambodians who have been with the Khmer Rouge Tribunal (KRT) since the inception of UN negotiations in 11997. He made several pointed criticisms of the UN, all but asserting that UN meddling was intended to mar Cambodia's significant contributions to the KRT and to assert UN dominance over it. Sok An also criticized the absence of communication between the UN and Cambodian sides of the court. In the wake of a planned UN/OLA visit in late November, the Japanese embassy has called for a meeting of core donors on November 6. END SUMMARY.

Concern about Corruption

12. (C) Noting the U.S. had joined the donor community to support the KRT, and citing the good work of the court's judicial process, Charge raised a concern of the donor group about allegations of corruption on the administrative side of the court. Sok An reviewed the KRT's "five achievements" saying that this was a laudable record of accomplishment and that nothing should be done to undermine this "package" of success. Some of the concerns being raised by donors did not reflect the progress being made; we need to keep our focus on the trials and bring the court's work to a conclusion, he said.

13. (C) Sok An reviewed the four main goals of the court. First the ECCC was supposed to provide justice to Cambodians who suffered under the Khmer Rouge. Second, the KRT would serve to preserve the memory of the Khmer Rouge atrocities and avoid future repetition. Third, the court could serve as a model for other countries contemplating a hybrid court and seeking to try war crimes or genocide on their own soil.

Fourth, the KRT was a means to help ensure peace, security and stability for the Cambodian people.

¶14. (C) The concerns being raised were a distraction from the goals of the court, said Sok An. Besides, a number of internal audits had been carried out and did not find any evidence of wrongdoing. The administrative machinery was doing its job to allow the court to achieve justice and we should not let these distractions delay the work. (NOTE: None of the audits to date have examined allegations of providing jobs for kickbacks. END NOTE.) Sok An similarly implied that the international community was attempting to undermine Cambodia's successful contribution to the peaceful and secure handling of a trial that proved to be "difficult and risky."

Allegations Against One Man

¶15. (C) In response to reference to the OIOS report, Sok An acknowledged that allegations had been made against one man but asked if there were evidence to prove the allegations. He noted an exchange of letters with the UN raising the allegations and other points, but there was not yet a response to his latest letter to the UN. Cambodians involved in the process continued to suggest points for an additional RGC letter to the UN, he said (although he later acknowledged that tit-for-tat letters were not productive). Sok An noted that the RGC had never claimed there was no corruption in Cambodia. No country is perfect, he averred. But the court was doing good work and should not have obstacles raised in front of it.

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¶16. (C) Sok An continued that he once told UNAKRT Special Expert and UN Assistant Secretary General David Tolbert that he understood the request to remove one man from the ECCC administration. "I never said 'no' to David Tolbert regarding that suggestion," he noted. He mentioned that he had been willing to consider the proposition. (COMMENT: In this meeting, he again did not outright reject the potential dismissal of Sean Visoth, whom he alluded to directly but never mentioned by name. END COMMENT.). But the work of the court must go on, Sok An continued. At this time there are only two people at the court who have been there since the beginning, he noted. It would be difficult to operate without them. Sok An mentioned the need for strong administration at the court. The judicial side was going well and the administrative side was also performing well, so why should we change it, Sok An asked rhetorically.

Questions About UN Motivations

¶17. (C) In response to Charge's query about a "political solution," Sok An went into a long discourse about the Cambodia-UN negotiation on the ECCC that began in 1997, implying the UN was not always a trustworthy negotiating partner. At one point, UN/OLA's Hans Corell sought to change a feature of the hybrid ECCC arrangement that had already been agreed. "He tried to throw out his own baby in front of everybody," said Sok An.

¶18. (C) Sok An seemed hesitant to accept that any real change in UN attitudes had occurred, asserting that some in the UN wanted to raise obstacles, although he acknowledged that UNAKRT Special Expert David Tolbert had a reasonable approach and said that he had had a good exchange with Tolbert. (This was when he repeated to Charge his line to Tolbert that the idea of moving one man was not off the table.)

More Evidence of Mistrust

¶19. (C) Sieng Vandeth, Chief of Cabinet in the Council of

Ministers, noted that he spoke to ECCC Deputy Director Knut Rosandhaug on October 30 and when he asked if Rosandhaug had ever spoken to any of the witnesses in the case, Rosandhaug responded in the negative. When asked how many direct witnesses there were in the case, Rosandhaug had noted there were five individuals. Implying this was a weak case, Vandeth suggested that the UN wanted to get rid of Sean Visoth because Visoth was a strong and effective administrator.

¶10. (C) Sok An said that the RGC was continuing its own investigation, but in the meantime the administrative machinery had to keep functioning to support the court. Now the UN and the Cambodian sides are not even talking, he said.

(NOTE: Few on the UN side have interacted with Visoth since the OIOS report. END NOTE.) A court cannot function like that, Sok An said. The Charge noted that when credible allegations are brought against an individual, the allegations cannot be ignored and must have an impact on administrative functions. Sok An noted that the allegations were not being ignored. However, without evidence a person could not be fired.

Past and Present Interactions with the UN

¶11. (C) In an exchange on former S/WCI Ambassador David Scheffer, Sok An fondly recalled a private meeting he had with Scheffer down at Sok An's Takeo province farm, during which Scheffer helped break through an RGC-UN impasse at that time. He noted that Scheffer had come straight from Phnom Penh's Pochentong airport and had flown out the same day, so as to avoid attracting notice or having to answer pressing questions from journalists.

¶12. (C) In response to a question about a possible UN/OLA visit, Sok An said that he had to attend a meeting of the Centrist Democrat International in Mexico in early November. Cambodia would be host to the CDI world conference in 2009, so it was important to attend, he noted. It was not possible to meet the OLA at this time, he said, but he expressed willingness to meet with them if their dates can be changed. (NOTE: According to UNAKRT's Giovanni Bassu, UN/OLA will propose a trip in late November that matches Sok An's

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availability. We understand that this will be no earlier than Nov. 21. END NOTE.)

¶13. (C) COMMENT: This meeting follows on a stiffer, less open exchange with MFA Secretary of State Ouch Borith in mid-October in which Ouch Borith adhered to the more legalistic arguments in defense of Sean Visoth. Sok An appeared relaxed, sure of his position and willing to be frank. He again alluded to the notion that at an appropriate time Sean Visoth would move from the ECCC. However, absent a serious effort by the UN to present and back up evidence, it does not appear that the RGC will feel compelled to investigate. If Sok An has indeed thought through a lateral move for Visoth, the DPM's biggest worry may be finding a suitable replacement who will assert Cambodian sovereignty in the process and thus keep ownership of Cambodia's "success story" at the KRT. While Sok An never suggested a quid pro quo whereby Knut Rosandhaug and Sean Visoth are both moved, his criticisms of the UN administration were pointed.

CAMPBELL